

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Robert M. Fulmer,

Plaintiff,

v.

Brian Kendell, Timothy Clark, Carol Holmes,
Albert Mack, Travis Guess, Shonta Robinson,

Defendants.

C/A: 9:21-1424-SAL

ORDER

This matter is before the court for review of the June 21, 2022 Report and Recommendation (the “Report”) of United States Magistrate Judge Molly H. Cherry, made in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 54.] In the Report, the Magistrate Judge recommends granting Defendants’ motion to dismiss without prejudice for Plaintiff’s failure to exhaust his administrative remedies, or alternatively, his failure to state a claim pursuant to Rule 12(b)(6). Attached to the Report was a notice advising Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. *Id.* at 12. Plaintiff has not filed objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to

accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 54, and incorporates the Report by reference herein. Accordingly, Defendants’ Motion to Dismiss, ECF No. 38, is **GRANTED**, and this case is **DISMISSED** without prejudice. As a result, Plaintiff’s motion to dismiss Defendant Clark, ECF No. 49, is terminated as moot.

IT IS SO ORDERED.

July 15, 2022
Columbia, South Carolina

/s/Sherri A. Lydon
Sherri A. Lydon
United States District Judge